

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

|                                 |   |                              |
|---------------------------------|---|------------------------------|
| RONALD DEVONE BALCOM,           | ) |                              |
|                                 | ) |                              |
| Plaintiff,                      | ) |                              |
|                                 | ) |                              |
| v.                              | ) | CIVIL ACT. NO. 1:19cv170-ECM |
|                                 | ) |                              |
| DONALD VALENZA, <i>et al.</i> , | ) |                              |
|                                 | ) |                              |
| Defendants.                     | ) |                              |

**ORDER**

On March 29, 2019, the Magistrate Judge issued a Recommendation recommending Plaintiff's complaint be dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii). (Doc. 4). Pending before the court are Plaintiff's Objections to the Recommendation. (Doc. 5).

After reviewing the pleadings and the record and, considering Plaintiff's specific Objections to the Magistrate Judge's Recommendation, the court agrees with the Magistrate Judge's analysis and recommendation that Plaintiff's claim of verbal abuse is insufficient. Accordingly, it is

ORDERED that Plaintiff's objection to the recommended disposition of this claim be and is hereby OVERRULED and the Recommendation be and is hereby ADOPTED.

As to the Magistrate Judge's analysis and recommendation regarding Plaintiff's equal protection claim, and upon consideration of Plaintiff's objection thereto in which he advances a more expansive claim that male inmates are not permitted to sit during worship service but female inmates have chairs at their worship service, the Recommendation is REJECTED. Plaintiff may amend his complaint to assert a claim under 42 U.S.C. § 1983 for violation of his rights under the Fourteenth Amendment to equal protection as a male inmate.

Finally, there being no objection to the Magistrate Judge's recommendation that Plaintiff's claim against Defendants Valenza and Brazier based on a theory of *respondeat superior* is insufficient, the court agrees with the Magistrate Judge's analysis, and it is

ORDERED that the Recommendation on this claim is ADOPTED.

In light of the foregoing, it is

ORDERED that the Magistrate Judge's Recommendation that this case be dismissed prior to service of process is REJECTED and the complaint against the named defendants on Plaintiff's equal protection claim is referred to the Magistrate Judge for further proceedings in accordance with the provisions of this order.

DONE this 16th day of April, 2019.

/s/ Emily C. Marks  
EMILY C. MARKS  
CHIEF UNITED STATES DISTRICT JUDGE